

# Order

Michigan Supreme Court  
Lansing, Michigan

May 21, 2014

Robert P. Young, Jr.,  
Chief Justice

148263

Michael F. Cavanagh  
Stephen J. Markman  
Mary Beth Kelly  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 148263  
COA: 316095  
Saginaw CC: 12-037055-FH

GLENN WALTER SCHOMAKER,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the October 29, 2013 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we VACATE the judgment of sentence, and we REMAND this case to the Saginaw Circuit Court. The sentencing guidelines apply to probation violation sentences. *People v Hendrick*, 472 Mich 555 (2005). The upper limit of the defendant's sentencing guidelines range was less than 18 months, and the court was required to impose an intermediate sanction under MCL 769.34(4)(a) unless it provided a substantial and compelling reason to depart from the guidelines range in accordance with MCL 769.34(3). The court erred by departing from the sentencing guidelines range without providing a substantial and compelling reason, contrary to *People v Babcock*, 469 Mich 247 (2003). On remand, the trial court shall sentence the defendant to an intermediate sanction, or state on the record a substantial and compelling reason for departing from the sentencing guidelines range. We note that the acts giving rise to the probation violation may provide a substantial and compelling reason to depart. *Hendrick, supra*. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 21, 2014

  
Clerk